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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Kurzie Lee Curtis,)

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Plaintiff,)

CV 12-838-PHX-PGR (DKD)

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v.)

ORDER

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Charles L. Ryan, et al.,)

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Respondents.)

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Before the Court are Petitioner’s Motion for Release Pending Appeal and Motion to Amend the Motion for Release Pending Appeal. (Docs. 24, 26.)

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On April 23, 2012, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. 1) He filed an amended petition on July 27, 2012. (Doc. 12.)

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Petitioner challenges his sentence and raises claims of ineffective assistance of counsel.¹ In their answer, Respondents argue that the petition is untimely—by 15 years—and that Petitioner is not entitled to equitable tolling. (Doc. 18.)

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Petitioner now seeks to be released from prison pending the resolution of his habeas proceeding. It is unclear whether this Court has the authority to release a state prisoner. *See In re Roe*, 257 F.3d 1077, 1079–80 (9th Cir. 2001). However, even if the Court does have

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¹ In 1987, following a jury trial, Petitioner was convicted of armed robbery, armed burglary, aggravated assault with a deadly weapon, and unlawful flight. (*See* Doc. 18 at 1–2, 6.) He was sentenced to life imprisonment without the possibility of parole for 25 years on the armed robbery, armed burglary, and aggravated assault convictions and to a 2.5-year prison term on the unlawful flight conviction. (*Id.* at 6.)

1 such authority, release is “reserved for extraordinary cases involving special circumstances
2 or a high probably of success.” *Land v. Deeds*, 878 F.2d 318, 318 (9th Cir.1989); *see In re*
3 *Roe*, 257 F.3d at 1080. Under this standard, Petitioner has not demonstrated that he is entitled
4 to release.

5 Accordingly,

6 **IT IS HEREBY ORDERED:**

7 (1) The reference to the Magistrate Judge is withdrawn as to Petitioner’s Motion
8 for Release Pending Appeal and Motion to Amend the Motion for Release Pending Appeal.
9 (Docs. 24, 26.)

10 (2) Petitioner’s Motion for Release Pending Appeal and Motion to Amend the
11 Motion for Release Pending Appeal. (Docs. 24, 26) are denied.

12 DATED this 12th day of February, 2013.

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14 
15 Paul G. Rosenblatt
16 United States District Judge